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## **AFFORDABLE HOUSING AND TAX CREDITS: WHAT CENTRAL FLORIDA BUSINESSES SHOULD KNOW**

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The Low Income Housing Tax Credit (LIHTC) program is one of the most successful federal subsidy programs today. In essence, the federal government allows private industry to build single and multi-family rental housing and receive a large percentage of the cost of such housing in tax credits (a tax credit can be used as a dollar-for-dollar reduction against taxes owed.) The amount of the tax credit is based on the construction or rehabilitation costs for the low-income units. Credits are taken annually for a term of 10 years, beginning with the tax year in which the project is placed in service or, at the owner's election, the next tax year.

While the LIHTC program is a win-win situation - providing quality affordable housing to low-income residents and giving developers an opportunity to earn a profit - it is a complex program that requires adherence to numerous administrative rules and regulations. From the application process and submission of numerous compliance forms, paperwork associated with LIHTC properties is extensive. Owners must ensure that the appropriate documents and records are filed and maintained. Documentation also must show that residences contain income-eligible tenants.

Clearly, the LIHTC program can be complicated to navigate. Legal counsel should be sought from the first day a developer locates a piece of property for an affordable housing project and wants to put a contract on it, to the last day when the tax-exempt bonds are issued, a construction loan closes or they syndicate their partnership interest. Broad and Cassel can assist a client in any and all business and legal aspects of an affordable housing transaction - including everything from securing the underlying land, to making applications for tax credits, tax-exempt bonds, or other federal or state subsidies, to picking a lender or equity partner, to negotiating and closing the deal. Randy Alligood and David Leon, partners at Broad and Cassel's Orlando office who, along with others on the affordable housing team at Broad and Cassel, focus their practice in the areas of Affordable Housing and Tax Credits, share the basics of the tax credit program and information about affordable housing resources in the Orlando area and nationally.

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The LIHTC program is administered by a Housing Credit Agency designated in each state. In Florida, the Florida Housing Finance Corporation (FHFC) is responsible for the administration of the IRC Tax Credit Program. Each state's population determines the number of tax credits that can be funded within the state in a given year. Due to this limit, many groups within the state express interest in applying for tax credits. To ensure the integrity of the tax credit program in Florida, the FHFC developed a competitive program in the review, ranking, and selection of projects to receive the tax credit.

The U.S. Department of Housing and Urban Development (HUD) has numerous financing programs, which address different types of tenants, owners, and developments. Also, Fannie Mae and Freddie Mac are very active in affordable housing financing. The federal tax code also has created various programs including the tax-exempt bond program for both rental and single-family housing and the Section 42 program for housing tax credits. Also, the State of Florida has its own programs, including the State Apartment Incentive Loan Program and SHIP program.

Depending on the type of subsidy program involved, an affordable housing community may target a variety of eligible tenants and home-owners. The LIHTC program administered by the FHFC has been tremendously successful in placing affordable housing in the Orange County/Orlando area. That particular program is for rental properties and provides significant federal subsidies for developers who will agree to rent apartment units to families or households which make less than 50 or 60 percent of the area median income. They also agree to restrict their rent to allow someone with such an income to afford the monthly rent payment.

Approximately 80 percent of affordable housing in the Orlando area is new construction, multi-family apartments. Many affordable housing communities offer various attractive perks for tenants, including day-care programs, tutoring programs for after-school homework projects, team building programs, computer rooms and recreational facilities. Most of the affordable housing communities in the Orlando area are public/private partnerships. A

federal subsidy is provided to a private owner who also secures financing from other private lenders such as banks and Fannie Mae. Most of the affordable housing is located near employers that have a large labor base.

Once a family secures affordable housing, other challenges can occur. For low-income and disadvantaged Americans, energy expenses can represent more than 15 percent of their household budget, according to the National Affordable Housing Network. Many families must choose between medicine and air conditioning, both vital to their health. Energy companies in Central Florida have programs that encourage the design of efficient homes, whether or not affordable of non-subsidized housing is involved. The various applications for governmental programs such as the federal housing tax credit include extra points for design efficiencies that reduce the utility costs for tenants. Well-designed housing plays an integral role in shaping both the lives of the individuals and families who live in the housing and the life of the community.

The Orlando Housing Authority, the Orange County Housing Authority and the Orange County Housing Finance Authority are the three primary governmental agencies that address affordable housing issues in the Orlando area. Other private non-profit groups include the Orlando Neighborhood Improvement Corporation, Housing and Neighborhood Development Services of Central Florida, Inc., and Florida Community Partners, Inc., which are heavily involved in local housing issues. Various local religious organizations also are involved in providing affordable housing and there is a local coalition of nonprofit housing providers that meets regularly.

*The Affordable Housing and Tax Credit Department at Broad and Cassel primarily represents developers, although other departments at the firm represent government agencies, lenders and other players involved in these transactions. Members of this Practice Group are intimately familiar with the myriad of local, state, and federal housing agencies. This knowledge and experience helps clients that are active in the development and management of affordable housing projects in any region of the United States. Attorneys in the Affordable Housing Practice Group have worked on significant affordable housing projects involving dozens of federal and state agencies.*